



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB5365

by Rep. Karen A. Yarbrough

SYNOPSIS AS INTRODUCED:

720 ILCS 685/2	from Ch. 23, par. 2358-2
720 ILCS 685/3	from Ch. 23, par. 2358-3
720 ILCS 685/4	from Ch. 23, par. 2358-4

Amends the Tobacco Accessories and Smoking Herbs Control Act. Provides that a person may not knowingly sell, distribute, or offer for sale or distribution in this State or to any person in this State any tobacco product or any component part thereof (including but not limited to the tobacco, paper, or filter, and any components for roll-your-own cigarettes), which contains a constituent (including a smoke constituent) or additive or artificial or natural flavoring that produces a characterizing flavor. Provides that a violation is a Class C misdemeanor.

LRB095 17538 RLC 43612 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Tobacco Accessories and Smoking Herbs
5 Control Act is amended by changing Sections 2, 3, and 4 as
6 follows:

7 (720 ILCS 685/2) (from Ch. 23, par. 2358-2)

8 Sec. 2. Purpose.

9 (a) The sale and possession of marijuana, hashish, cocaine,
10 opium and their derivatives, is not only prohibited by Illinois
11 Law, but the use of these substances has been deemed injurious
12 to the health of the user.

13 It has further been determined by the Surgeon General of
14 the United States that the use of tobacco is hazardous to human
15 health.

16 The ready availability of smoking herbs to minors could
17 lead to the use of tobacco and illegal drugs.

18 It is in the best interests of the citizens of the State of
19 Illinois to seek to prohibit the spread of illegal drugs,
20 tobacco or smoking materials to minors. The prohibition of the
21 sale of tobacco and snuff accessories and smoking herbs to
22 minors would help to curb the usage of illegal drugs and
23 tobacco products, among our youth.

1 (b) The General Assembly finds and declares that there has
2 been a proliferation of flavored cigarettes and other tobacco
3 products in recent years. Many of these products have flavors
4 that are particularly attractive to children. These tobacco
5 products have included flavors such as various fruits, candy,
6 chocolate, vanilla, honey, other sweeteners, nut, mint, cocoa,
7 desserts, soft drinks, alcoholic beverages, herb and spice
8 flavorings or other flavorings that are attractive to youth.
9 According to survey evidence and public health experts,
10 children are more likely to choose flavored cigarettes and
11 other tobacco products, and thus the existence of these
12 products increases the incidence of tobacco use among children.
13 Moreover, the earlier that an individual begins using tobacco,
14 the more likely he or she will become addicted to tobacco
15 products and will continue to use tobacco products throughout
16 his or her lifetime. Accordingly, flavored tobacco products
17 result in increased tobacco use, increased addiction, a greater
18 incidence of smoking-related illnesses, increased health care
19 costs, and more smoking-related deaths. The General Assembly
20 therefore finds and declares that flavored tobacco products
21 present a significant threat to public health and to our
22 children, and that the sale of flavored tobacco products must
23 be restricted.

24 (Source: P.A. 82-487.)

25 (720 ILCS 685/3) (from Ch. 23, par. 2358-3)

1 Sec. 3. Definitions. The following definitions shall apply
2 to this Act:

3 (a) "Tobacco accessories" shall mean cigarette papers,
4 pipes, holders of smoking materials of all types, cigarette
5 rolling machines, and other items, designed primarily for the
6 smoking or ingestion of tobacco products or of substances made
7 illegal under any statute or of substances whose sale, gift,
8 barter, or exchange is made unlawful under this Act.

9 (b) "Smoking herbs" shall mean all substances of plant
10 origin and their derivatives, including but not limited to
11 broom, calea, California poppy, damiana, hops, ginseng,
12 lobelia, jimson weed and other members of the Datura genus,
13 passion flower and wild lettuce, which are processed or sold
14 primarily for use as smoking materials.

15 (c) "Bidi cigarette" means a product that contains tobacco
16 that is wrapped in temburni or tendu leaf or that is wrapped in
17 any other material identified by rules of the Department of
18 Public Health that is similar in appearance or characteristics
19 to the temburni or tendu leaf.

20 (d) "Characterizing flavor" means a distinguishable
21 flavor, taste, or aroma (other than tobacco or menthol for all
22 tobacco products and other than wintergreen and mint for
23 smokeless tobacco products and cigars) produced by the tobacco
24 product or its smoke either prior to or during consumption.

25 (Source: P.A. 91-734, eff. 1-1-01.)

1 (720 ILCS 685/4) (from Ch. 23, par. 2358-4)

2 Sec. 4. Offenses.

3 (a) Sale to minors. No person shall knowingly sell, barter,
4 exchange, deliver or give away or cause or permit or procure to
5 be sold, bartered, exchanged, delivered, or given away tobacco
6 accessories or smoking herbs to any person under 18 years of
7 age.

8 (a-5) Sale of bidi cigarettes. No person shall knowingly
9 sell, barter, exchange, deliver, or give away a bidi cigarette
10 to another person, nor shall a person cause or permit or
11 procure a bidi cigarette to be sold, bartered, exchanged,
12 delivered, or given away to another person.

13 (a-6) No person shall knowingly sell, distribute, or offer
14 for sale or distribution in this State or to any person in this
15 State any tobacco product or any component part thereof
16 (including but not limited to the tobacco, paper, or filter,
17 and any components for roll-your-own cigarettes), which
18 contains a constituent (including a smoke constituent) or
19 additive or artificial or natural flavoring that produces a
20 characterizing flavor. A public statement or claim by the
21 manufacturer, or by any person authorized or permitted by the
22 manufacturer to make public statements concerning the tobacco
23 product, that a tobacco product has or produces a flavor,
24 taste, or aroma (other than tobacco or menthol for all tobacco
25 products and other than wintergreen and mint for smokeless
26 tobacco products and cigars) shall constitute proof that the

1 tobacco product has a characterizing flavor.

2 (b) Sale of cigarette paper. No person shall knowingly
3 offer, sell, barter, exchange, deliver or give away cigarette
4 paper or cause, permit, or procure cigarette paper to be sold,
5 offered, bartered, exchanged, delivered, or given away except
6 from premises or an establishment where other tobacco products
7 are sold. For purposes of this Section, "tobacco products"
8 means cigarettes, cigars, smokeless tobacco, or tobacco in any
9 of its forms.

10 (c) Sale of cigarette paper from vending machines. No
11 person shall knowingly offer, sell, barter, exchange, deliver
12 or give away cigarette paper or cause, permit, or procure
13 cigarette paper to be sold, offered, bartered, exchanged,
14 delivered, or given away by use of a vending or coin-operated
15 machine or device. For purposes of this Section, "cigarette
16 paper" shall not include any paper that is incorporated into a
17 product to which a tax stamp must be affixed under the
18 Cigarette Tax Act or the Cigarette Use Tax Act.

19 (d) Use of identification cards. No person in the
20 furtherance or facilitation of obtaining smoking accessories
21 and smoking herbs shall display or use a false or forged
22 identification card or transfer, alter, or deface an
23 identification card.

24 (e) Warning to minors. Any person, firm, partnership,
25 company or corporation operating a place of business where
26 tobacco accessories and smoking herbs are sold or offered for

1 sale shall post in a conspicuous place upon the premises a sign
2 upon which there shall be imprinted the following statement,
3 "SALE OF TOBACCO ACCESSORIES AND SMOKING HERBS TO PERSONS UNDER
4 EIGHTEEN YEARS OF AGE OR THE MISREPRESENTATION OF AGE TO
5 PROCURE SUCH A SALE IS PROHIBITED BY LAW". The sign shall be
6 printed on a white card in red letters at least one-half inch
7 in height.

8 (Source: P.A. 91-734, eff. 1-1-01.)